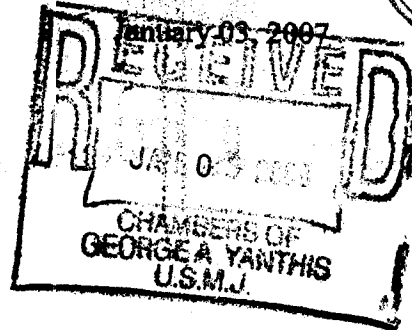
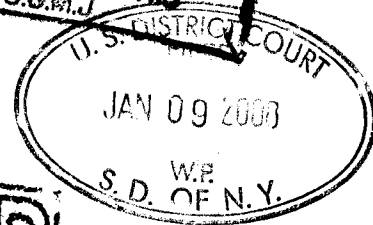
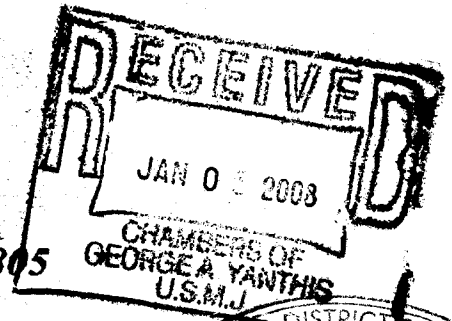


**ANGELA DIPILATO  
541 PELHAM ROAD  
NEW ROCHELLE, NEW YORK 10805  
(914)632-2224**



Honorable George A. Yanthis  
United States Magistrate Judge  
United States Courthouse  
300 Quarropas Street, Room # 118  
White Plains, New York 10601

Re: DiPilato v. 7 -Eleven, Inc., et al.  
Civil Action No.: 07 Civ 7637 (S.D.N.Y.)

*Attor*

*Defendant's Motion to Dismiss - My Request for an Extension of time to Oppose the Motion and Defendants letter to the Court dated December 31, 2007.*

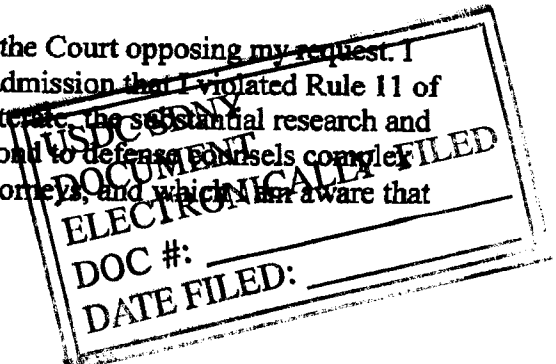
Your Honor:

As you know, presently pending before the Court is the Defendants Motion to Dismiss the above-referenced case.. A matter I take very seriously.

On December 26, 2007, I wrote the Court to provide an update on my pending opposition papers and request an adjournment. In that letter, I set forth the fact that the Defendants Motion to Dismiss is complex and that I have been diligently working on my opposition. I did request a lengthy adjournment, however, the basis was my ability to respond adequately to the complex motion in the time allotted and in said period where two (2) national holidays were a part thereof.

I also, advised the Court that I am moving, yet another unpredicted dilemma. Thus, the reason for my lengthy adjournment request.

I received today, a copy of the defendant's counsels letter to the Court opposing my request. I take exception to counsels accusations therein that I made an admission that I violated Rule 11 of Federal Civil Procedure. I never made such an admission. I reiterate, the substantial research and time expenditure is required for one (1) person, *pro se*, to respond to defense counsels complex moving papers, which were probably prepared by a team of attorneys, and which I am aware that



they have brought this same motion for this defendant in the past. No admission....to any violation of law.

I do not believe there exists any basis for defendants opposition, other than to bully and abuse me, in an attempt to "deny me my day in court". Surely, no prejudice will come to these defendants' if this matter is extended by one month.

When this Court is considering my request, I humbly remind the Court that Federal Civil Rules of Procedure 12(b)(6) do not even permit the making of the motion to dismiss as it is untimely. Had I been able to express myself better at the pretrial conference the Court might have understood my concerns about the timeliness of this motion. Moreover, Mr. Welter, misrepresented a material fact to the Court that day, i.e., he 'painted the picture' that he made his motion to dismiss prior to the submission of his Answer. This was untrue.

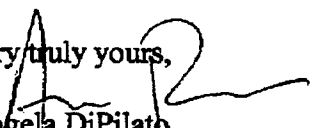
I filed my Complaint with the Court on August 26, 2007. Thereafter and on September 27, 2007 the defendants Answered in this Action. It was not until October 03, 2007, after the answer, that the defendants filed there motion to dismiss pursuant to Rule 12(b)(6). (A review of the Courts docket will indicate same to be true.).

Rule 12(b)(6) is clear that "motions seeking dismissal of claims must be made prior to filing a responsive pleading. Moreover, by failing to make a timely 12(b)(6) motion the defendants' have waived their right to these objections.

I respectfully request that the Court take this into consideration when considering my adjournment request as this is a substantial part of my opposition. I do not believe these defendants have the standing to make a motion to dismiss at this time.

Additionally, I have spoken to an attorney, Vadim Goldshteyn, Esq. who has indicated that he would most likely represent me in this matter. At this time, I feel that retaining counsel would be in my best interest. Mr. Goldshteyn cannot meet with me until Thursday, January 10, 2008. I assume if retained he would need at least the time I am requesting to respond on my behalf.

Thank you for the Court's valuable time in consideration. I await your response.

Very truly yours,  
  
Angela DiPilato

cc: Welter Law Firm, P.C.  
c/o Eric A. Welter, Esq.  
720 Lynn Street, Suite B  
Herndon, VA. 20170  
*Attorneys for Defendants*

**ANGELA DIPILATO  
541 PELHAM ROAD  
NEW ROCHELLE, NEW YORK 10805  
(914)632-2224**

December 26, 2007

Honorable Judge George A. Yanthis  
U.S. District Court, Southern District of New York  
United States Courthouse  
300 Quarropas Street, Room # 118  
White Plains, New York 10601

Re:

Matter of;

DiPilato v. 7-Eleven, Inc., et al.  
Civil Action No.: 07 CV 7636 (CLB)(GAY)

**Plaintiffs Opposition to Defendants Motion for Dismissal pursuant to Rule 12(b)(6).  
The Scheduling Conference of November 26, 2007.**

Your Honor:

Pursuant to a Scheduling Notice I appeared for a pretrial conference on November 26, 2007. At that conference, the Court allowed the motion to proceed over my objection to its timeliness. I feel that because of my being *pro se* the Court did not understand the nature of my objection which is now a complex part of my opposition to this motion., to wit;

The Defendants filed an answer prior to making a motion to dismiss under Rule 12(b)(6). Rule 12 (b)(6) is clear that the filing of the answer waived the right to bring such a motion. Thus, said motion if allowed must be treated as a motion under Rule 12( c ). Under Rule 12( c ), any objections not raised in the answer and/or by a timely 12(b)(6) motion are waived. I believe this to be the case herein and the thrust of my opposition.

In addition, at said conference I made a motion to submit an amended complaint. The Court told me to go forward with that motion. As a part of that motion the proposed amended complaint must be annexed.

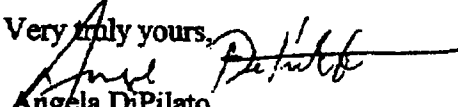
The Court has scheduled my response to the motion to dismiss for submission on or before December 31, 2007. Likewise, I have been working diligently on said response in conjunction with the proposed amended complaint. I have been to the Law Library dozens of times and researched more than 300 cases that are applicable. I believe I have merit to my complaint.

The amount of legal research to defeat the defendants complex motion is extensive. Between the amount of work involved and the Christmas holiday I am aware that I will not be able to have my opposition completed by the December 31, 2007 date. I apologize profusely to the Court but re-iterate that I have been working diligently to do so.

In addition thereto, I will be moving my residence on January 11, 2007 which move I am sure will add additional unforeseen delays.

I respectfully request based on the foregoing, that the Court consider allowing me until February 11, 2008 to submit my opposition and motion to amend the Complaint. I do not believe this extension will prejudice the defendants in any way.

Thank you for the Court's valuable time in consideration of my request. I await the Courts response to this request. I can be reached by telephone at (917) 468-6109 or by fax at (914) 632-2224.

Very truly yours,  
  
Angela DiPilato

Via Facsimile to the Court

cc: Welter Law Firm, P.C.  
720 Lynn Street, Suite B  
Herndon, Virginia 20170  
c/o Eric A. Welter, Esq.

Defendants Attorney